

§ 904.1

- 904.202 Filing of documents.
- 904.203 [Reserved]
- 904.204 Duties and powers of Judge.
- 904.205 Disqualification of Judge.
- 904.206 Pleadings, motions, and service.
- 904.207 Amendment of pleading or record.
- 904.208 Extensions of time.
- 904.209 Expedited administrative proceedings.
- 904.210 Summary decision.
- 904.211 Failure to appear.
- 904.212 Failure to prosecute or defend.
- 904.213 Settlements.
- 904.214 Stipulations.
- 904.215 Consolidation.
- 904.216 Prehearing conferences.

DISCOVERY

- 904.240 Discovery generally.
- 904.241 Depositions.
- 904.242 Interrogatories.
- 904.243 Admissions.
- 904.244 Production of documents and inspection.
- 904.245 Subpoenas.

HEARINGS

- 904.250 Notice of time and place of hearing.
- 904.251 Evidence.
- 904.252 Witnesses.
- 904.253 Closing of record.
- 904.254 Interlocutory review.
- 904.255 *Ex parte* communications.

POST-HEARING

- 904.260 Recordation of hearing.
- 904.261 Post-hearing briefs.

DECISION

- 904.270 Record of decision.
- 904.271 Initial decision.
- 904.272 Petition for reconsideration.
- 904.273 Administrative review of decision.

Subpart D—Permit Sanctions and Denials

GENERAL

- 904.300 Scope and applicability.
- 904.301 Bases for permit sanctions or denials.
- 904.302 Notice of permit sanction (NOPS).
- 904.303 Notice of intent to deny permit (NIDP).
- 904.304 Opportunity for hearing.
- 904.305 Final administrative decision.

PERMIT SANCTIONS FOR NONCOMPLIANCE

- 904.310 Nature of permit sanctions.
- 904.311 Compliance.

PERMIT SANCTIONS FOR VIOLATIONS

- 904.320 Nature of permit sanctions.
- 904.321 Reinstatement of permit.
- 904.322 Interim action.

15 CFR Ch. IX (1–1–07 Edition)

Subpart E—Written Warnings

- 904.400 Purpose and scope.
- 904.401 Written warning as a prior violation.
- 904.402 Procedures.
- 904.403 Review and appeal of a written warning.

Subpart F—Seizure and Forfeiture Procedures

- 904.500 Purpose and scope.
- 904.501 Notice of seizure.
- 904.502 Bonded release of seized property.
- 904.503 Appraisal.
- 904.504 Administrative forfeiture proceedings.
- 904.505 Summary sale.
- 904.506 Remission of forfeiture and restoration of proceeds of sale.
- 904.507 Recovery of certain storage costs.
- 904.508 Voluntary forfeiture by abandonment.
- 904.509 Disposal of forfeited property.
- 904.510 Return of seized property.

AUTHORITY: 16 U.S.C. 1801–1882; 16 U.S.C. 1531–1543; 16 U.S.C. 1361–1407; 16 U.S.C. 3371–3378; 16 U.S.C. 1431–1439; 16 U.S.C. 773–773k; 16 U.S.C. 951–961; 16 U.S.C. 5001–5012; 16 U.S.C. 3631–3644; 42 U.S.C. 9101 *et seq.*; 30 U.S.C. 1401 *et seq.*; 16 U.S.C. 971–971k; 16 U.S.C. 781 *et seq.*; 16 U.S.C. 2401–2413; 16 U.S.C. 2431–2444; 16 U.S.C. 972–972h; 16 U.S.C. 916–916i; 16 U.S.C. 1151–1175; 16 U.S.C. 3601–3608; 16 U.S.C. 1851 note; 15 U.S.C. 5601 *et seq.*; Pub. L. 105–277; 16 U.S.C. 1822 note, Section 801(f); 16 U.S.C. 2465(a); 16 U.S.C. 5103(b); 16 U.S.C. 1385 *et seq.*; 16 U.S.C. 1822 note (Section 4006); 16 U.S.C. 4001–4017; 22 U.S.C. 1980(g); 16 U.S.C. 5506(a); 16 U.S.C. 5601–5612; 16 U.S.C. 1822; 16 U.S.C. 973–973(r); 15 U.S.C. 330–330(e).

SOURCE: 71 FR 12448, Mar. 10, 2006, unless otherwise noted.

Subpart A—General

§ 904.1 Purpose and scope.

(a) This part sets forth the procedures governing NOAA's administrative proceedings for assessment of civil penalties, suspension, revocation, modification, or denial of permits, issuance and use of written warnings, and release or forfeiture of seized property.

(b) This subpart defines terms appearing in this part and sets forth rules for the filing and service of documents in administrative proceedings covered by this part.

(c) The following statutes authorize NOAA to assess civil penalties, impose

permit sanctions, issue written warnings, and/or seize and forfeit property in response to violations of those statutes:

- (1) American Fisheries Act of 1998, Public Law 105-277;
- (2) Anadromous Fish Products Act, 16 U.S.C. 1822 note, Section 801(f);
- (3) Antarctic Conservation Act of 1978, 16 U.S.C. 2401-2413;
- (4) Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. 2431-2444;
- (5) Antarctic Protection Act of 1990, 16 U.S.C. 2465(a);
- (6) Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5103(b);
- (7) Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601-3608;
- (8) Atlantic Striped Bass Conservation Act, 16 U.S.C. 1851 note;
- (9) Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971k;
- (10) Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1401 *et seq.*;
- (11) Dolphin Protection Consumer Information Act, 16 U.S.C. 1385 *et seq.*;
- (12) Driftnet Impact Monitoring, Assessment, and Control Act, 16 U.S.C. 1822 note (Section 4006);
- (13) Eastern Pacific Tuna Licensing Act of 1984, 16 U.S.C. 972-972h;
- (14) Endangered Species Act of 1973, 16 U.S.C. 1531-1543;
- (15) Fish and Seafood Promotion Act of 1986, 16 U.S.C. 4001-4017;
- (16) Fisherman's Protective Act of 1967, 22 U.S.C. 1980(g);
- (17) Fur Seal Act Amendments of 1983, 16 U.S.C. 1151-1175;
- (18) High Seas Fishing Compliance Act, 16 U.S.C. 5506(a);
- (19) Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378;
- (20) Land Remote-Sensing Policy Act of 1992, 15 U.S.C. 5601 *et seq.*;
- (21) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801-1882;
- (22) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407;
- (23) National Marine Sanctuaries Act, 16 U.S.C. 1431-1439;
- (24) North Pacific Anadromous Stocks Convention Act of 1992, 16 U.S.C. 5001-5012;
- (25) Northern Pacific Halibut Act of 1982, 16 U.S.C. 773-773k;

(26) Northwest Atlantic Fisheries Convention Act of 1995, 16 U.S.C. 5601-5612;

(27) Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. 9101 *et seq.*;

(28) Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631-3644;

(29) Shark Finning Prohibition Act, 16 U.S.C. 1822;

(30) South Pacific Tuna Act of 1988, 16 U.S.C. 973-973(r);

(31) Sponge Act, 16 U.S.C. 781 *et seq.*;

(32) Tuna Conventions Act of 1950, 16 U.S.C. 951-961;

(33) Weather Modification Reporting Act, 15 U.S.C. 330-330e; and

(34) Whaling Convention Act of 1949, 16 U.S.C. 916-916l.

(d) The procedures set forth in this part are intended to apply to administrative proceedings under these and any other statutes or authorities administered by NOAA.

§ 904.2 Definitions and acronyms.

Unless the context otherwise requires, or as otherwise noted, terms in this Part have the meanings prescribed in the applicable statute or regulation. In addition, the following definitions apply:

Administrator means the Administrator of NOAA or a designee.

Agency means the National Oceanic and Atmospheric Administration (NOAA).

ALJ Docketing Center means the Docketing Center of the Office of Administrative Law Judges.

Applicable statute means a statute cited in § 904.1(c), and any regulations issued by NOAA to implement it.

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the USCG;

(2) Any special agent or fishery enforcement officer of NMFS;

(3) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary to enforce the provisions of any statute administered by NOAA; or

(4) Any USCG personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Citation means a written warning (see section 311(c) of the Magnuson-Stevens Fishery Conservation and Management